

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MORGAN ADZEI

COMPLAINT

Plaintiff,

JURY TRIAL DEMANDED

CITY OF NEW YORK & P.O. BALDO,

06cv5868 (GBD)

Defendants.

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NATURE OF ACTION

1. This action is brought by Plaintiff to recover damages for false arrest, malicious prosecution and other violations of Plaintiff's rights.

THE PARTIES

2. Plaintiff is a resident of New York, New York.

3. The City of New York is a municipal corporation whose residence is in all five counties of New York City.

4. P.O. Baldo is an employee of the New York City Police Department.

JURISDICTION AND VENUE

5. Jurisdiction is proper in this district pursuant to 28 U.S.C. § 1331 in that this action arises under the Constitution and laws of the United States, among them 42 U.S.C. § 1983.

6. Venue is properly placed in this district pursuant to 28 U.S.C. § 1391(c) in that the City of New York is deemed to reside in this jurisdiction.

FACTUAL ALLEGATIONS UNDERLYING PLAINTIFF'S CLAIMS

7. On 2/16/06 at about 11:30 PM in front of 2201 AMSTERDAM AVENUE, New York County, plaintiff was talking on the phone and obeying all city state and federal laws. At or about this time, Baldo arrested complainant without probable cause and charged him with the

charge of failing to disperse. Complainant was lawfully talking on the phone and had never been asked to disperse therefore never failed to disperse.

8. Upon the arrest, PO Baldo used excessive force on complainant by tightening his handcuffs and yanking his arm causing unnecessary pain and, upon information and belief, nerve damage.

9. P.O. Baldo issued to plaintiff a summons to appear in court and answer criminal charges. The summons was issued maliciously by PO Baldo

10. On 4/6/06 all charges were dismissed and sealed against Morgan Adzei under summons number 4254016372, Docket Number 2006SN039651 (New York County).

FIRST CAUSE OF ACTION
FALSE ARREST UNDER 42 U.S.C. § 1983

10 Plaintiff repeats and realleges the allegations set forth in all preceding paragraphs.

11 Plaintiff was arrested without probable cause. The conduct of defendants violated plaintiff's right to be free of unreasonable and unlawful seizure, secured by the Fourth and Fourteenth Amendments to the Constitution and 42 U.S.C. § 1983.

12 By virtue of the foregoing, Plaintiff has been damaged.

SECOND CAUSE OF ACTION
FALSE ARREST AND IMPRISONMENT

13. Plaintiff repeats and realleges the allegations set forth in all preceding paragraphs as if fully set forth herein.

14. Defendants intended to confine the plaintiff. The plaintiff was conscious of the confinement and he did not consent to the confinement. The confinement was not otherwise privileged.

15. By virtue of the foregoing, Plaintiff has been damaged.

THIRD CAUSE OF ACTION
EXCESSIVE FORCE UNDER 42 U.S.C. § 1983

16. Plaintiff repeats and realleges the allegations set forth in all preceding paragraphs as if fully set forth herein.
17. Defendants acted under color of state law.
18. Defendants deprived plaintiff of his right to be secure in his person, against unreasonable seizure of his person and against the use of excessive force as secured by the Fourth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. § 1983.
19. As a result of the foregoing, plaintiff has been damaged and demands compensatory and punitive damages.

FOURTH CAUSE OF ACTION
ASSAULT

20. Plaintiff repeats and realleges the allegations set forth in all preceding paragraphs as if fully set forth herein.
22. By virtue of the foregoing, Plaintiff has been damaged.

FIFTH CAUSE OF ACTION
BATTERY

23. Plaintiff repeats and realleges the allegations set forth in all preceding paragraphs as if fully set forth herein.
24. By virtue of the foregoing, Plaintiff has been damaged.

SIXTH CAUSE OF ACTION
MALICIOUS PROSECUTION
42 U.S.C. § 1983

37. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.
38. Acting under color of state law, defendants brought charges against plaintiff without probable cause.
39. As a result of the foregoing, Plaintiff has been damaged and demands compensatory and

punitive relief.

SEVENTH CAUSE OF ACTION
MALICIOUS PROSECUTION

40. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

41. As a result of the foregoing, Plaintiff has been damaged and demands compensatory and punitive relief.

WHEREFORE, Plaintiff demands as follows:

- A. Compensatory damages;
- B. Punitive damages to be determined by the trier of fact;
- C. Cost of suit and attorneys fees pursuant to 42 U.S.C. § 1988;
- D. Such other relief as the Court may deem just and proper.

Dated: New York, New York
August 7, 2006

/s/
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